

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF WISCONSIN
3

4)
5 UNITED STATES OF AMERICA and the)
6 STATE OF WISCONSIN,)
7)

8 Plaintiffs,)

9) Civil Action No. 1:10-cv-910
10 v.)
11)

12 NCR CORPORATION, *et al.*)
13)

14 Defendants.)
15)

16
17 **DECLARATION OF DOUGLAS A. BICKNESE**

18 I, Douglas A. Bicknese, declare as follows:
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- 20 1. I am presently employed as a Supervisory Archivist at the National Archives and Records
21 Administration's (NARA) regional archives in Chicago, Illinois, and have been so
22 employed since 2006. I serve as the Regional Archives Director of the Chicago Facility
23 and supervise ten permanent and three temporary staff.
- 24 2. The information provided in this declaration is based on my personal knowledge of the
25 facts set out herein and my seven years of service with NARA, or on information that has
26 been reported to me by NARA staff in the course of my official duties.
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- 1 3. I was awarded a Bachelors Degree in History and Political Science by Purdue University
2 in 1992, a Masters Degree in History by the University of Illinois at Chicago in 1995, and
3 a Masters Degree in Information and Library Science in 1998 by the University of
4 Michigan. I am also a Certified Archivist and a Certified Records Manager.
5
- 6 4. I commenced employment with NARA in 2006. Prior to this, I oversaw the University
7 Archives at the University of Illinois at Chicago from 1998 to 2006. I also have served
8 intermittently as an adjunct instructor at the Graduate School of Information and Library
9 Science at Dominican University, in River Forest, IL.
10
- 11 5. The National Archives is the depository of the permanently valuable historical records
12 and documentation of the Federal Government of the United States of America. NARA
13 was created by Congress to maintain the archives of the United States and to provide
14 guidance on the management of federal agency records. Currently NARA operates 27
15 facilities, of which 14 are regional archives, including the facility that I manage in
16 Chicago.
17
- 18 6. I am familiar with the system and procedures within NARA and documents held by it.
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- 20 7. The National Archives at Chicago, like all archival facilities administered by NARA, is
21 open to the public. This means that researchers, whether members of the public or
22 federal agency representatives, who have an interest in examining the archival material
23 held at NARA Chicago may come in during designated hours to look at the records.
24 Typically, when a researcher arrives at NARA Chicago, he or she must first register with
25 NARA staff. Then, depending on the nature of the research, the researcher would try to
26 narrow the scope of his or her search for archival records with the assistance of staff
27 archivists and the use of existing finding aids. NARA staff would then go and retrieve
28 the records, and the researcher would be free to examine them and, depending on the

1 condition of the records, to have them reproduced. The procedure I've described here
2 applies to all parties interested in doing research at the NARA Chicago. There is no
3 priority access granted to researchers from federal agencies versus researchers from the
4 general public. Only select members of the archives staff have access to the archives
5 stacks where the records are stored. No researchers from either federal agencies or the
6 general public are allowed to browse the stacks to identify, select, or remove records they
7 identify.

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9 8. NARA Chicago maintains certain permanent records of the U.S. Army Corps of
10 Engineers ("Corps") which can be found in Record Group 77. The holdings at NARA
11 regional facilities typically originate from federal agency operations that take place
12 within a particular geographical district. In this case, the holdings in NARA Chicago's
13 Record Group 77 overwhelmingly document Corps activities for the divisions and
14 districts based in the states of Illinois, Indiana, Michigan, Minnesota,¹ Ohio, and
15 Wisconsin; which would include records related to the Fox River and Green Bay,
16 Wisconsin. It is unlikely that records responsive to Corps activities on the Fox River and
17 in Green Bay, Wisconsin, for a period beginning after World War II could exist at other
18 NARA facilities; I would reasonably expect that the vast majority of these Corps records
19 would exist here at NARA Chicago and at National Archives Headquarters in College
20 Park, Maryland. The RG 77 holdings at NARA Chicago total roughly 2,500 cubic feet of
21 the over 103,000 total cubic feet of records available.

22
23 9. Finding aids related to RG 77 at NARA Chicago are a mix of documents (e.g., box
24 indexes, letters, transfer documents such as Standard Form (SF) 135s, etc.) that were
25 either created by the Corps and accompanied the transfer of permanent records to NARA,
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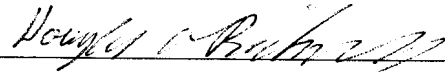
27 ¹ The St. Paul District, in Minnesota, was once considered part of the "Great Plains Region," as a result about 146
28 cubic feet of Corps records originating in the St. Paul District and dating from the mid-19th Century until 1943 may
be found at NARA's archival facility in Kansas City, Missouri.

1 or were subsequently created by NARA archivists for use both internally and by the
2 public. These particular RG 77 finding aids, like all finding aids, provide higher level
3 organizational descriptions for a given record group and as such are useful to researchers
4 and NARA staff in locating specific boxes and/or files of records. They are, however,
5 not generally box-level or document-level specific. The finding aids are also not
6 organized by project or geographic feature, but by the organization or sometimes sub-
7 organization that created them. The mission and jurisdiction of the different
8 organizations often change over time. The researcher would review the finding aids for
9 the various districts that may have had jurisdiction over the specific area over time, then
10 work with the Archives staff to complete pull slips used by the staff to retrieve the
11 records for the researcher. NARA standards for regional archives facilities require the
12 records to be made available to the researcher within one hour of request.

- 13
14 10. Based on information provided to me by my staff, I am aware that from July 30, 2012
15 through August 1, 2012, Melissa Newsom came to NARA Chicago to do research on
16 behalf of the Department of Justice (DOJ). Ms. Newsom was chiefly assisted by Scott
17 Forsythe, an archivist and member of my staff who has some familiarity with Corps
18 records at NARA Chicago. Upon request, Mr. Forsythe provided Ms. Newsom with all
19 of the finding aids related to RG77 and held by NARA Chicago. These finding aids were
20 subsequently scanned by Ms. Newsom using equipment she brought with her and, as I
21 understand it, these copies were eventually provided to DOJ. There was no reproduction
22 charge in this case since NARA policy allows researchers to use their own equipment to
23 copy the records at no charge after NARA staff has examined and approved the
24 equipment to ensure it will not damage the records. In providing these finding aids to
25 Ms. Newsom, my staff at NARA Chicago followed the same procedures that it would
26 have followed with a private researcher interested in the same finding aids and/or records.

1 11. Based on information provided to me by my staff, I am also aware that three researchers,
2 including Corps attorney Don Erwin, visited our facility to look at Corps records related
3 to the Fox River in July 2009. All three researchers, including Mr. Erwin, worked with
4 Scott Forsythe and other staff to examine our publicly available finding aids and
5 requested certain records to be pulled for examination.
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8 Executed this 14 day of September, 2012.
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13 Douglas A. Bicknese

14 Regional Archives Director- NARA Chicago
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CERTIFICATE OF SERVICE

I hereby certify that on this date I caused a true and correct copy of the foregoing Declaration to be served on counsel of record via e-mail to:

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Dated: September 17, 2012

s/ Randall M. Stone